

STATE OF MICHIGAN
COURT OF APPEALS

LYLLETTE HESTER,

Plaintiff-Appellee,

v

GREGORY HESTER,

Defendant-Appellant.

UNPUBLISHED

June 16, 1998

No. 196411

Wayne Circuit Court

LC No. 95-536438 DO

Before: Markman, P.J., and Saad and Hoekstra, JJ.

PER CURIAM.

Defendant appeals as of right the judgment of divorce entered by the lower court. We affirm.

Defendant claims that the lower court should have granted his motion for relief from the judgment of divorce because his consent to the judgment was invalid. We disagree. It is a well-settled principle of law that courts are bound by property settlements reached through negotiations and agreement by parties to a divorce action, in the absence of fraud, duress, mutual mistake, or severe stress that prevented a party from understanding in a reasonable manner the nature and effect of the act in which he was engaged. *Keyser v Keyser*, 182 Mich App 268, 269-270; 451 NW2d 587 (1990). See MCR 2.507(H). We will not overturn a finding of the trial court concerning the validity of the parties' consent to a settlement agreement absent a finding of abuse of discretion. *Id.* at 270.

In support of his claim, defendant makes three arguments. First, defendant asserts that his severe mental stress deprived him of the capacity to consent to the judgment of divorce. However, defendant failed to preserve this issue for review because he did not make this argument below. *Spreen v Smith*, 153 Mich App 1, 11; 394 NW2d 123 (1986). Second, defendant argues that his attorney did not inform him that he did not have to accept the settlement agreement. However, defendant has abandoned this issue on appeal by failing to provide sufficient argument to support this position. *Dresden v Detroit Macomb Hospital Corp*, 218 Mich App 292, 300; 553 NW2d 387 (1996). Third, defendant argues that he never had an opportunity to discuss the terms of the property settlement with his attorney. However, at the property settlement hearing, defendant stated on the record that he

understood the agreement and acquiesced to its terms. Therefore, we hold that the court did not abuse its discretion in denying defendant's motion for relief from the judgment.

Next, defendant argues that the property settlement is unconscionable and inequitable. However, because defendant consented to the terms of the agreement and did not claim in his motion for relief from the judgment that the terms of the agreement were reached as a result of "fraud, duress, mutual mistake, or severe stress," *Keyser, supra* at 269-270, we are precluded from reviewing defendant's claim.

Last, defendant argues that the life insurance provision of the settlement agreement is ambiguous and, therefore, unlawful. We disagree. If the contractual language is clear and unambiguous, then its meaning is a question of law we decide de novo. *Brucker v McKinlay Transport, Inc*, 225 Mich App 442, 448; 571 NW2d 548 (1997). If the contractual language is unclear or susceptible to multiple meanings, then its interpretation is a question of fact that we review for clear error. *Id.* The insurance waiver provision in this case is unambiguous. It clearly states that each party's rights as beneficiary of the insurance policies held by the other is extinguished, except that plaintiff is the beneficiary of defendant's life insurance policy so long as plaintiff makes the necessary funeral arrangements for defendant. Additionally, the parties did not name plaintiff the beneficiary of defendant's life insurance policy at plaintiff's request but at defendant's request. Therefore, in light of the unambiguous language of the provision and defendant's desire that plaintiff be the beneficiary of his life insurance policy, we conclude that defendant's argument is without merit.

Affirmed.

/s/ Stephen J. Markman

/s/ Henry William Saad

/s/ Joel P. Hoekstra